

IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

4 UNITED STATES SECURITIES AND EXCHANGE COMMISSION, ) Docket No. 18 C 5587  
5 Plaintiffs, )  
6 vs. )  
7 EQUITYBUILD, INC., EQUITYBUILD )  
8 FINANCE, LLC, JEROME H. COHEN, )  
AND SHAUN D. COHEN, ) Chicago, Illinois  
9 Defendants. ) February 7, 2019  
 ) 9:53 o'clock a.m.

TRANSCRIPT OF PROCEEDINGS - STATUS  
BEFORE THE HONORABLE JOHN Z. LEE

## APPEARANCES:

14 For the Plaintiff: U.S. SECURITIES & EXCHANGE  
15 COMMISSION  
16 BY: MR. BENJAMIN J. HANAUER  
17 MR. TIMOTHY J. STOCKWELL  
18 175 W. Jackson Blvd., Suite 900  
19 Chicago, Illinois 60604  
20  
21 For Defts. Jerome H. BRAGANCA LAW, LLC  
22 and Shaun D. Cohen: BY: MS. CELIZA BRAGANCA  
23 230 South Clark Street, Suite 262  
24 Chicago, Illinois 60604  
25 For the Receiver: RACHLIS, DUFF, PEEL & KAPLAN, LLC  
26 BY: MR. MICHAEL RACHLIS  
27 542 South Dearborn, Suite 900  
28 Chicago, Illinois 60605  
29  
30 For Wilmington Trust: PLUNKETT COONEY, P.C.  
31 BY: MR. JAMES M. CROWLEY  
32 221 N. LaSalle Street, Suite 1550  
33 Chicago, Illinois 60601

## 1 APPEARANCES (Cont'd) :

2 For Citibank:

3 STAHL, COWEN, CROWLEY, ADDIS, LLC  
4 BY: MR. RONALD A. DAMASHEK  
5 55 West Monroe Street, Suite 1200  
6 Chicago, Illinois 606035 For Citibank, U.S. Bank,  
6 Wilmington Trust, and  
7 Fannie Mae:FOLEY & LARDNER  
BY: MS. JILL NICHOLSON  
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Chicago, Illinois 60654

8 For Midland Loan Svcs.:

9 AKERMAN, LLP  
10 BY: MR. THOMAS B. FULLERTON  
11 71 South Wacker Drive, 46th Floor  
12 Chicago, Illinois 60606

11 For Bloomfield Capital:

12 HONIGMAN, LLP  
13 BY: MS. HELEN M. HAPNER  
14 155 North Wacker Drive, Suite 3100  
15 Chicago, Illinois 6060616 For Capital Investors,  
17 Capital Partners,  
18 6951 S. Merrill I, LLC,  
19 5001 S. Drexel Blvd. Fund  
20 II, LLC:GARDINER, KOCH & WEISBERG  
MS. MICHELLE M. LaGROTTA  
53 W. Jackson Blvd., Suite 950  
Chicago, Illinois 6060421 For Freddie Mac,  
22 via teleconference:LANDMAN, CORSI, BALLAINE & FORD  
BY: MR. MARK LANDMAN  
120 Broadway  
New York, New York 10271

23 For Freddie Mac:

PILGRIM CHRISTAKIS, LLP  
BY: MS. JENNIFER L. MAJEWSKI  
321 North Clark Street, 26th Floor  
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24 For BMO Harris:

CHAPMAN & CUTLER  
BY: MR. JAMES P. SULLIVAN  
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Chicago, Illinois 60603

1 APPEARANCES (Cont'd) :

2  
3 For Liberty EBCP,  
via teleconference: JAFFE, RAITT, HEUER & WEISS  
BY: MR. JAY L. WELFORD  
27777 Franklin Road  
4 Southfield, Michigan 48034

5 Also Present: MR. KEVIN B. DUFF, Receiver  
6

7 Court Reporter: MR. JOSEPH RICKHOFF  
Official Court Reporter  
8 219 S. Dearborn St., Suite 1224  
Chicago, Illinois 60604  
9 (312) 435-5562

10 \* \* \* \* \*

11 PROCEEDINGS RECORDED BY  
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1                   (Proceedings had in open court, in part via telephone  
2 conference:)

3                   THE CLERK: Case 18 CV 5587, United States Securities  
4 and Exchange Commission vs. Equitybuild.

5                   MR. HANAUER: Good morning, your Honor, Ben Hanauer  
6 and Tim Stockwell for the SEC.

7                   MR. RACHLIS: Good morning, your Honor, Michael  
8 Rachlis on behalf of the receiver and the receivership. Kevin  
9 Duff is here, as well.

10                  MR. DUFF: Good morning, your Honor.

11                  THE COURT: Good morning.

12                  MS. BRAGANCA: Good morning, your Honor, Liza  
13 Braganca on behalf of Shaun Cohen and Jerry Cohen.

14                  MR. SULLIVAN: Good morning, Judge, James Sullivan on  
15 behalf of BMO Harris Bank.

16                  MR. CROWLEY: Good morning, your Honor, James Crowley  
17 on behalf of one of the Wilmington Trust defendants.

18                  MR. DAMASHEK: Ron Damashek on behalf of Citibank, as  
19 trustee related to the Dorchester property.

20                  MS. NICHOLSON: Good morning, your Honor, Jill  
21 Nicholson on behalf of a number of special servicers,  
22 including indenture trustees Citibank, U.S. Bank, Wilmington  
23 Trust, and Fannie Mae.

24                  MS. HAPNER: Good morning, your Honor, Helen Hapner  
25 on behalf of creditor Bloomfield Capital.

1                   MS. MAJEWSKI: Good morning, your Honor, Jennifer  
2 Majewski on behalf of Freddie Mac.

3                   MS. LaGROTTA: Michelle LaGrotta on behalf of Capital  
4 Investors.

5                   MR. FULLERTON: Good morning, your Honor, Tom  
6 Fullerton on behalf of Midland Loan Services.

7                   THE COURT: And who do we have on the phone?

8                   MR. WELFORD: Good morning, your Honor, Jay Welford  
9 of the Detroit firm of Jaffe, Raitt, Heuer & Weiss appearing  
10 on behalf of Liberty EBCP, LLC, a lender.

11                  MR. LANDMAN: And, your Honor, good morning, this is  
12 Mark Landman from the firm Landman, Corsi, Ballaine & Ford in  
13 New York, and I'm here on behalf of Freddie Mac.

14                  THE COURT: All right. So, I feel, looking at the  
15 docket, that the government shutdown kind of got us a little  
16 bit off track here, and given the general order that was  
17 issued by Chief Judge Castillo. And I know that there's  
18 continuing proceedings before Magistrate Judge Kim, if I'm not  
19 mistaken.

20                  And, so, at this point in time -- I had set  
21 previously deadlines for the motion for monetary relief, that  
22 the SEC has filed. There were response dates that I had set  
23 there. I know there might be some confusion as to whether or  
24 not those response dates still hold. And, so, current -- they  
25 were due on February 1st.

1           So, I'm going to go ahead and, basically, reinstate  
2 that motion in the event that the Clerk's Office thinks it's  
3 no longer there.

4           Does anyone need any more time to file a response at  
5 this point?

6           MS. BRAGANCA: Your Honor, this is Liza Braganca. I  
7 have a motion to withdraw pending. And I will alert my client  
8 -- should that motion be granted, I will alert my clients to  
9 -- that those -- that motion, they still have the right to  
10 respond to it. And --

11          THE COURT: I don't know whether they still have the  
12 right to respond to it.

13          MS. BRAGANCA: I'm sorry, your Honor, that you would  
14 give them the opportunity to respond to it.

15          THE COURT: Right.

16          Just so there's no -- well, why don't I do this: As  
17 I said, given the shutdown, what I'm going to do is I'm going  
18 to extend the date by which anyone should file a response to  
19 the SEC's motion for monetary relief to February 15th. Okay?

20          And, then, I'll give the SEC until March 8th for  
21 reply. All right? So --

22          MS. BRAGANCA: Your Honor -- okay.

23          THE COURT: I, also, in the December 18th order,  
24 directed that any motion by the receiver with regard to a  
25 recommended claims process be filed and noticed for

1 presentation. Obviously, that took place during the shutdown.

2 What's the status of that?

3 MR. RACHLIS: We are -- the shutdown did impact some  
4 of the mechanics of trying to get this done. This week we  
5 actually met with the SEC in regards to that. And, so, we  
6 believe we're about two weeks away from having that claims --  
7 the motion for approval of a claims process in front of your  
8 Honor.

9 THE COURT: Okay. Very good.

10 So, I will extend the date by which the receiver  
11 should file a motion for a proposed claims process to February  
12 22nd. Okay? And you can notice it up for the following week.

13 Are there any other deadlines out there that I need  
14 to either reset or revive at this point?

15 Yes?

16 MR. CROWLEY: Your Honor, the receiver was supposed  
17 to file -- this is Jim Crowley -- James Crowley.

18 The receiver was supposed to have filed a report  
19 January 31st. It hasn't been done. So, that's late.

20 MR. RACHLIS: Same issue, your Honor. Typically, our  
21 process has been we would draft that. We will give some -- we  
22 couldn't get input from the SEC or whatnot with the shutdown.  
23 We anticipate having that filed by the end of this month.

24 THE COURT: Okay.

25 So, by February 28th?

1 MR. RACHLIS: Yes.

2 THE COURT: Very good.

3 Is there anything else that I can address today?

4 MS. BRAGANCA: Yes, your Honor.

5 On December 19th, I filed a motion to withdraw;  
6 alerted my clients that that had been filed. I've been in  
7 communications with them. Last night they sent me something  
8 and asked me to file their opposition to it.

9 May I approach and provide you with a copy of it? I  
10 didn't have the opportunity to file in chambers.

11 THE COURT: I haven't taken a look at it, so I don't  
12 think it's going to help me particularly.

13 Was that the only response that was filed?

14 MS. BRAGANCA: That is the only response, your Honor.

15 THE COURT: Why don't you go ahead and hand it up,  
16 then.

17 MS. BRAGANCA: Okay.

18 (Document tendered to the Court.)

19 MS. BRAGANCA: It's very brief.

20 (Brief pause.)

21 MS. BRAGANCA: It's a second copy of the same thing.

22 THE COURT: Does the SEC have a position one way or  
23 the other with regard to the motion?

24 MR. HANAUER: No, your Honor.

25 THE COURT: And can you remind me, generally

1 speaking, the basis for your motion for withdrawal?

2 MS. BRAGANCA: Yes, your Honor. It's that I have not  
3 been paid since the release of funds. That's been since  
4 August.

5 THE COURT: Okay.

6 Well, at this point, I've reviewed the opposition to  
7 the motion of Ms. Braganca to withdraw from this case filed by  
8 Jerome Cohen and Shaun Cohen. They're not entitled to free  
9 counsel in this case. And, so, therefore, the motion to  
10 withdraw is granted.

11 MS. BRAGANCA: Thank you, your Honor.

12 THE COURT: Make sure that you provide them with a  
13 copy of the -- did you file with the court a notification  
14 form?

15 MS. BRAGANCA: I did, your Honor.

16 THE COURT: Make sure you provide them with a copy of  
17 the order that's issued today.

18 MS. BRAGANCA: I will do that. Thank you.

19 THE COURT: Is there anything else that I can address  
20 for the parties today?

21 (No response.)

22 THE COURT: All right.

23 And I see, as I said, that there's other hearings  
24 before Judge Kim. Let's go ahead and set this case for  
25 further status the week of April 15th.

1                   Carmen --

2                   MR. HANAUER: Your Honor?

3                   THE COURT: Yes.

4                   MR. HANAUER: I apologize. I'm going to be out of  
5 town that week. That's the Chicago Public Schools spring  
6 break.

7                   THE COURT: April 8th -- the week of April 8th.

8                   THE CLERK: April 9th at 9:00 o'clock.

9                   THE COURT: And I'll keep an eye on the docket to see  
10 if Magistrate Judge Kim issues any orders with regard to the  
11 pending motions.

12                  With regard to the -- and once I get the motion from  
13 the receiver with regard to the claims process, I'll set a  
14 briefing schedule, so that no one has to appear for that.

15                  Thank you.

16                  MR. RACHLIS: Your Honor does want that noticed up  
17 the following week, correct?

18                  THE COURT: Yes.

19                  MR. RACHLIS: We'll do that. Thank you.

20                  THE COURT: Thank you.

21                  MR. HANAUER: Thank you, your Honor.

22                  MR. DUFF: Thank you, your Honor.

23                                 \*        \*        \*        \*

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1 I certify that the foregoing is a correct transcript from the  
2 record of proceedings in the above-entitled matter.  
3

4 /s/ Joseph Rickhoff  
5 Official Court Reporter

6 July 3, 2019

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